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IN THE SUPREME COURT OF THE UNITED STATES XANDER L. STEVAS,
CLERK

OCTOBER TERM 1983

BETTE T. KRALL,

Petitioner,

v.

THE BETHEL PARK SCHOOL DISTRICT,

Respondent.

ON WRIT OF CERTIORARI
TO THE SUPREME COURT
OF PENNSYLVANIA

BRIEF OF RESPONDENT
IN OPPOSITION TO THE
PETITION FOR WRIT OF
CERTIORARI

A. Bruce Bowden, Esquire
Buchanan Ingersoll
Professional Corporation
57th Floor - 600 Grant St.
Pittsburgh, PA 15219
(412) 562-8844
Counsel of Record for
Respondent

Of Counsel:

John R. Johnson, Esquire
Buchanan Ingersoll
Professional Corporation
57th Floor - 600 Grant St.
Pittsburgh, PA 15219
(412) 562-8819

Attorneys for Respondent

COUNTERSTATEMENT OF
QUESTIONS PRESENTED

1. Whether a Petition for Writ of Certiorari should be denied where the Petitioner failed to present her federal questions to the state courts in the manner required by their reasonable rules of procedure.

2. Whether a Petition for Writ of Certiorari should be denied where the Petitioner failed to file a timely Petition for Allowance of Appeal with the Supreme Court of Pennsylvania.

3. Whether the Petition for Writ of Certiorari should be denied where Petitioner's failure to follow the state court's rules of procedure constituted an adequate and independent state ground for the disposition of her case.

4. Whether the Petition for Writ of Certiorari should be denied

where it is frivolous and entirely devoid of merit and fails to raise any special or important federal questions for the Court's review.

5. Whether the power of school boards to determine, subject to administrative and judicial review, the community standards to be used in a teacher termination case constitutes a violation of the Fourteenth Amendment to the Constitution of the United States.

6. Whether the Secretary of Education's discretion to decide if it is necessary to take additional testimony on appeal of a teacher termination case inherently violates the teacher's rights under the Fourteenth Amendment to the Constitution of the United States.

7. Whether Commonwealth Court correctly ruled, as a matter of

Pennsylvania law, that the proper scope of review of the Secretary of Education in a teacher termination case is to determine if the school board properly applied the appropriate legal standard and if the board's decision was supported by substantial evidence on the record.

TABLE OF CONTENTS

	<u>Page</u>
Counterstatement of Questions Presented	i
Table of Contents	iv
Table of Authorities	vii
Counterstatement of Jurisdiction	1
Counterstatement of the Case	2
Summary of Argument	7
Argument	9
A. The Petition For Writ of Certiorari Should Be Denied For Lack Of Jurisdiction Because Petitioner Failed To Properly Present Any Substantial Federal Questions to the State Courts Below.....	9
1. Petitioner Failed To Submit Any Substantial Federal Question To The Commonwealth Court Of Pennsylvania In A Proper Manner.....	11
2. Petitioner Failed To Submit Any Federal	

Questions To The Supreme Court Of Pennsylvania In A Timely Manner.....	14
B. The Petition For Writ of Certiorari Should Be Denied Because The State Court Judgment Rested Upon Adequate And Independent State Grounds.....	15
C. The Petition For Writ Of Certiorari Should Be Denied Because Petitioner Has Failed To Raise Any Federal Issues Of Substantial Importance Which Would Encourage The Court To Exercise Its Discretionary Power To Review This Case.	18
1. This Court Has Already Determined That The Use Of "Community Standards" Is An Acceptable Means Of Deciding Individual Cases.....	21
2. Petitioner's Argument That Leaving The Severity Of Punishment To The School District's Discretion Is A Due Process Violation Is Frivolous And Devoid Of Merit.....	24

3. The Secretary of Education's Decision Not To Take Additional Testimony As An Exercise Of His Administrative Discretion Is Not An Important Issue Which Warrants This Court's Review.....	27
4. Petitioner's Argument That The Commonwealth Court Decision In This Case Was Arbitrary And Capricious And Deprived Her Of Her Due Process Rights Is Clearly Specious And Does Not Serve As A Valid Basis For Granting Her Petition For Writ Of Certiorari.....	30
5. Inconsistency Between Decisions Of Different Panels Of The Same State Court, Even If True, Is An Insufficient Reason For This Court To Grant The Instant Petition.....	34
Conclusion	36

TABLE OF AUTHORITIES

	<u>Page</u>
<u>CASES:</u>	
<u>Altman v. Ryan,</u> 435 Pa. 401, 257 A.2d 583 (1969).....	13
<u>Appeal of Barton Howe III,</u> 37 Pa. Commonwealth Ct. 241, 389 A.2d 1214 (1978).....	35
<u>Bailey v. Anderson,</u> 326 U.S. 203 (1945).....	17
<u>Bethel Park School District</u> <u>v. Krall</u> , 67 Pa. Common- wealth Ct. 143, 445 A.2d 1377 (1982), <u>appeal denied</u> , Pa. _____, _____ A.2d _____(1983).....	32
<u>Cardinale v. Louisiana,</u> 394 U.S. 437 (1969).....	10,14
<u>Clairton School District v.</u> <u>Strinich</u> , 50 Pa. Commonwealth Ct. 389, 413 A.2d 26 (1980), aff'd, 494 Pa. 297, 431 A.2d 267 (1981), <u>cert. denied</u> , 456 U.S. 982 (1982).....	28
<u>Crowell v. Randell</u> , 35 U.S. (10 Pet.) 368, 389 (1836).....	10

Page

<u>Dunk v. Manufacturers Light and Heat Co.</u> , 52 Pa. Common- wealth Ct. 85, 415 A.2d 919 (1980).....	13
<u>Fisher v. Snyder</u> , 476 F.2d 375 (8th Cir. 1973). . 25,26,27	
<u>Hanover Township Federation of Teachers v. Hanover Community School Corp.</u> , 318 F.Supp. 757 (N.D. Ind. 1970), aff'd, 457 F.2d 456 (7th Cir. 1972).....	29
<u>Henry v. Mississippi</u> , 379 U.S. 443 (1965).....	16
<u>Herb v. Pitcairn</u> , 324 U.S. 117 (1945).....	15, 34
<u>Horosko v. Mt. Pleasant Township School District</u> , 335 Pa. 369, 6 A.2d 866 (1939), cert. denied, 308 U.S. 553 (1939)... .	21,33
<u>John v. Paullin</u> , 231 U.S. 583 (1913).....	15,16
<u>Lane v. Wilson</u> , 307 U.S. 268 (1939).....	29
<u>Langley v. Uniontown Area School District</u> , 28 Pa. Commonwealth Ct. 69, 367 A.2d 736 (1977)..	22
<u>Michigan v. Long</u> , U.S. ___, 51 U.S.L.W. 523I (July 6, 1983).....	15

	<u>Page</u>
<u>Miller v. California</u> , 413 U.S. 15 (1973).....	23
<u>Penn-Delco School District v.</u> <u>Urso</u> , 33 Pa. Commonwealth Ct. 501, 382 A.2d 162 (1978).....	22, 25
<u>Pennsylvania Human Relations</u> <u>Commission v. Chester Housing</u> <u>Authority</u> , 458 Pa. 67, 327 A.2d 335 (1974), cert. denied, 420 U.S. 974 (1975).....	12
<u>Stembridge v. Georgia</u> , 343 U.S. 541 (1952).....	14
<u>Street v. New York</u> , 394 U.S. 576 (1969).....	17
<u>Yick Wo v. Hopkins</u> , 118 U.S. 356 (1886).....	29

STATUTES AND RULES

Judicial Code

28 U.S.C. §1254(1) (1976).....	1
28 U.S.C. §1257(3) (1976).....	1,8,10

Pennsylvania Public School Code of 1949 [Pa.Stat.Ann.tit. 24, §1-101 et seq. (Purdon)]

	<u>Page</u>
Pa.Stat.Ann.tit. 24 §11-1122 (Purdon 1983 Supp.).....	21

Pa.Stat.Ann.tit. §24-11-1131 (Purdon 1983 Supp.).....	28
--	----

Pennsylvania Rules of Appellate
Procedure

Rule 903(b).....	4,6
Rule 1113(a)(2).....	7,14

Rules of the Supreme Court of
the United States

Rule 17.1.....	19,21
Rule 19.5.....	18
Rule 20.3.....	18
Rule 21.1.....	3,11
Rule 34.1.....	18
Rule 49.2.....	36

COUNTERSTATEMENT OF JURISDICTION

Petitioner asserts jurisdiction in this Court under 28 U.S.C. §1254(1). Section 1254 is applicable only to cases arising out of the federal courts of appeals. The instant case has heretofore proceeded exclusively in the state court system of the Commonwealth of Pennsylvania.

For the purposes of this Brief, Respondent has assumed that Petitioner meant to assert jurisdiction under 28 U.S.C. §1257(3). Jurisdiction does not lie in this Court under §1257(3), however, because Petitioner failed to properly "draw into question" or "specially set up or claim" in the state courts the Constitutional violations asserted in her Petition for Writ of Certiorari. Respondent's argument in

this regard is set forth more fully in
the Argument section of this Brief.

COUNTERSTATEMENT OF THE CASE

A. Introduction

Petitioner's Statement of the Case is essentially correct prior to the last paragraph thereof, and to that extent is not disputed. Indeed, the greatest portion of Petitioner's Statement has been taken practically verbatim from Judge Craig's Opinion for the Commonwealth Court of Pennsylvania in this case.

The last paragraph of Petitioner's Statement is, however, incorrect. It provides:

Bette T. Krall having prevailed before the Secretary of Education first raised Constitutional [sic]

issues before the Commonwealth Court of Pennsylvania which was the court of first instance to hear the matter.

To correct that misstatement, Respondent offers the following Counterstatement in substitution of that paragraph and in addition to Petitioner's Statement of the Case. These facts were required to be included in the Petition for Writ of Certiorari by Sup.Ct.R. 21.1(h), but were not.

B. Counterstatement of the Case

The Decision of the Secretary of Education of the Commonwealth of Pennsylvania (hereinafter, the "Secretary"), which overturned the Decision of the Bethel Park School District (herein referred to as the "School District" or the "Respondent") to terminate Bette T. Krall (herein

referred to as "Mrs. Krall" or the "Petitioner"), was rendered on November 30, 1981. The School District filed a timely Petition for Review in the Commonwealth Court of Pennsylvania.

The School District's Petition for Review asserted that the Secretary had exceeded the scope of his review and had erroneously ruled that Mrs. Krall's conduct did not constitute "immorality" under the relevant statutory and case law.

A cross appeal by the Petitioner, if any, was required by Pa. R.A.P. 903(b) to be filed with the Commonwealth Court no later than January 13, 1982. No cross appeal was filed by Petitioner on that date or thereafter.

The School District's Brief in Commonwealth Court was timely filed,

and addressed the issues which had been raised in its Petition for Review. Mrs. Krall's Brief in Response, however, raised for the first time the issue of whether the Secretary had improperly refused to permit her to introduce evidence of predisposition on the part of a School Board member and discrimination by the School Board as a whole in that other teachers guilty of the same conduct had not been terminated. Mrs. Krall's Brief did not assert any violation of the Constitution or statutes of the United States nor did it cite to those laws.

The School District requested and was granted the right to file a Reply Brief, which pointed out that Mrs. Krall had not raised her discrimination allegations with the Secretary and that

her claims of predisposition and discrimination had not been placed before the court on appeal or cross appeal as required by Pa.R.A.P. 903(b).

Commonwealth Court's Decision in this case reversed the Decision of the Secretary. The court did not rule on any issues of federal statutory or Constitutional concern because none had been placed before it.

After losing her case in Commonwealth Court, Mrs. Krall's Application for Reargument claimed, for the first time, a violation of the Federal Constitutional guarantees of due process and equal protection. The School District responded that those Constitutional issues were not properly before the court because they had not been raised at any prior point in the

proceedings. The Application for Reargument was duly denied on July 28, 1982.

Mrs. Krall subsequently filed an untimely Petition for Allowance of Appeal in the Supreme Court of Pennsylvania. Pa.R.A.P. 1113(a)(2) required that she file her Petition no later than August 9, 1982 -- sixty days after entry of the Order sought to be reviewed. It was not filed until August 26, 1982. The Petition for Allowance of Appeal was denied on April 19, 1983.

SUMMARY OF ARGUMENT

A. This Court has not been presented with a substantial federal question because Petitioner's Federal Constitutional claims were not presented to the state courts in a timely and proper manner. She failed to preserve

her Federal Constitutional claims in Commonwealth Court when she did not file a cross appeal based on those issues. She also failed to file a timely Petition for Allowance of appeal in the Pennsylvania Supreme Court. As a result, neither state court ruled on the Federal Constitutional issues Mrs. Krall has raised in her Petition.

Jurisdiction will not lie in this Court pursuant to 28 U.S.C. §1257(3) where, as here, the Petitioner has not presented any federal issues which were properly raised and decided by the state courts.

B. Petitioner's failure to raise by cross appeal her Federal Constitutional claims in Commonwealth Court and her failure to file a timely Petition for Allowance of Appeal in the Pennsylvania Supreme Court constitute

adequate and independent state grounds
for the judgments of those courts.

C. Petitioner's asserted
reasons for requesting the Writ of
Certiorari are completely insubstantial
and devoid of merit, and do not warrant
this Court's exercise of its discre-
tionary power of review.

ARGUMENT

A. THE PETITION FOR WRIT OF
CERTIORARI SHOULD BE DENIED
FOR LACK OF JURISDICTION
BECAUSE PETITIONER FAILED TO
PROPERLY PRESENT ANY
SUBSTANTIAL FEDERAL QUESTIONS
TO THE STATE COURTS BELOW.

In order to have a Petition for
Writ of Certiorari considered by this
Court, it is essential that the
Petitioner show that substantial federal
questions were raised in and ruled upon

by the courts below. Cardinale v.
Louisiana, 394 U.S. 437, 438 (1969);
Crowell v. Randell, 35 U.S. (10 Pet.)
368, 391 (1836). This is a jurisdictional
requirement.

In this case, Petitioner did not submit any federal issues to the state courts in a proper and timely manner and the state courts did not decide any federal issues either for or against her. There is, therefore, no decision of a state court which draws into question the validity of a treaty or statute of the United States or which involves a specially set up or claimed federal title, right, privilege or immunity, the necessary predicate to this Court's jurisdiction under 28 U.S.C. §1257(3).

1. Petitioner Failed To Submit Any Substantial Federal Question To The Commonwealth Court Of Pennsylvania In A Proper Manner.

The Petition for Writ of Certiorari submitted in this case did not, as required by Sup.Ct.R. 21.1(h):

specify the stage in the proceedings, both in the court of first instance and in the appellate court, at which the federal questions sought to be reviewed were raised; the method or manner of raising them and the way in which they were passed upon by the court; such pertinent quotation of specific portions of the record, or summary thereof, with specific reference to the places in the record where the matter appears (e.g., ruling on exception, portion of court's charge and exception thereto, assignment of errors) as will show that the federal question was timely and properly raised so as to give this Court jurisdiction to review the judgment on writ of certiorari.

The reason for this omission is simple:
The Petitioner did not raise her Federal

Constitutional issues in a timely and proper manner in the Commonwealth Court of Pennsylvania and, as a result, those claims were not decided by that Court.

Petitioner first raised her Federal Constitutional claims in her Application for Reargument before the Commonwealth Court; she had not previously raised those issues with the court in a cross appeal. Failure to place an issue before a Pennsylvania appellate court by appeal or cross appeal is a well-established basis for the court's refusal to rule on that issue. Pennsylvania Human Relations Commission v. Chester Housing Authority, 458 Pa. 67, 72 n.12, 327 A.2d 335, 338 n.12 (1974), cert. denied, 420 U.S. 974 (1975).

Moreover, Mrs. Krall's asser-

tion in her Application for Reargument that the School District had violated her Federal Constitutional rights was not reviewable by Commonwealth Court in any event, since those issues were not raised by her before the Secretary of Education. Pennsylvania law requires that Federal Constitutional issues be raised in the appropriate administrative proceedings in order to be reviewed by the state courts. Altman v. Ryan, 435 Pa. 401, 407, 257 A.2d 583, 585 (1969); Dunk v. Manufacturers Light and Heat Co., 52 Pa. Commonwealth Ct. 85, 87, 415 A.2d 919, 920 (1980).

Because Petitioner failed to raise her Federal Constitutional issues in Commonwealth Court in the manner required by Pennsylvania law, this Court lacks jurisdiction to hear her claims at

this point in the proceedings.

Cardinale v. Louisiana, supra;

Stembridge v. Georgia, 343 U.S. 541,
547 (1952).

2. Petitioner Failed To Assert
Any Federal Questions To The
Supreme Court of Pennsylvania
In A Timely Manner.

Petitioner's Statement of the Case fails to mention that her Petition for Allowance of Appeal in the Supreme Court of Pennsylvania was untimely filed under Pa.R.A.P. 1113(a)(2). It was due in that court on August 9, 1982. It was not submitted until August 26, 1982. No petition or motion for an extension of time or to file out of time was submitted to that court by Petitioner, even after this defect was pointed out by the School District in its Motion to Quash

the Petition for Allowance of Appeal. The Pennsylvania Supreme Court denied Mrs. Krall's Petition for Allowance of Appeal on April 19, 1983, without comment.

It is axiomatic that the failure to submit a timely appeal in the state court bars consideration of the case in this Court. John v. Paullin, 231 U.S. 583, 585 (1913).

B. THE PETITION FOR WRIT OF CERTIORARI SHOULD BE DENIED BECAUSE THE STATE COURT JUDGMENT RESTED UPON ADEQUATE AND INDEPENDENT STATE GROUNDS.

It is settled law that this Court will not disturb the decision of a state court which is based upon adequate and independent state grounds. Michigan v. Long, ____ U.S. ____, 51 U.S.L.W. 5231 (July 6, 1983); and, Herb v.

Pitcairn, 324 U.S. 117 (1945). The adequate and independent state ground may be procedural, as well as substantive, so long as the procedural rule in question serves a legitimate state interest. Henry v. Mississippi, 379 U.S. 443, 447 (1965).

In this case, the adequate and independent state grounds for ruling against Petitioner were 1) her failure to file a cross appeal in Commonwealth Court, and 2) her failure to file a timely Petition for Allowance of Appeal in the Pennsylvania Supreme Court. That such grounds are adequate and independent cannot be disputed. As stated by this Court in John v. Paullin, 231 U.S. at 585:

Without any doubt it rests with each state to prescribe the jurisdiction of its appellate courts,

the mode and time of invoking that jurisdiction and the rules of practice to be applied in its exercise; and the state law and practice in this regard are no less applicable when Federal rights are in controversy than when the case turns entirely upon questions of local or general law.
(Emphasis added.)

The fact that the Pennsylvania Supreme Court denied Mrs. Krall's Petition for Allowance of Appeal and that Commonwealth Court denied her Petition for Reargument without any comment regarding those procedural deficiencies is immaterial. The silence of a state court in such circumstances is presumed to result from the procedural deficiencies. Street v. New York, 394 U.S. 576, 582 (1969); Bailey v. Anderson, 326 U.S. 203, 206-07 (1945).

It is undeniable that the state procedural rules in question serve a legitimate state interest. This Court

also has rules which provide that 1) issues not raised in the Petition for a Writ of Certiorari must be raised in a cross-petition in order to be heard by the Court, and 2) untimely Petitions for a Writ of Certiorari will not be heard by the Court. Sup.Ct.R. 19.5, 34.1(a) and 20.3.

This Court should, therefore, dismiss the Petition for Writ of Certiorari as frivolous since there were adequate and independent state grounds to rule against Petitioner.

C. THE PETITION FOR WRIT OF CERTIORARI SHOULD BE DENIED BECAUSE PETITIONER HAS FAILED TO RAISE ANY FEDERAL ISSUES OF SUBSTANTIAL IMPORTANCE WHICH WOULD ENCOURAGE THE COURT TO EXERCISE ITS DISCRETIONARY POWER TO REVIEW THIS CASE.

The Rules of this Court provide that a writ of certiorari "will be

granted only when there are special and important reasons therefor." Sup.Ct.R. 17.1. Among the reasons which weigh in favor of granting the writ are 1) the existence of conflicting decisions between state and federal courts or between state courts of the last resort and 2) that the state court has ruled on "an important question of federal law which has not been, but should be, settled by this Court" Sup.Ct.R. 17.1(b) and (c).

In the instant case, Petitioner has basically ignored Rule 17.1 and has instead continually asserted the magic words "due process" and "equal protection." She has essentially set forth five reasons supporting her Petition:

1. The Commonwealth Court's deferral to the School District's

assessment of "community standards" is inherently void for vagueness in violation of Petitioner's rights to due process and equal protection of the law;

2. That the Commonwealth Court's decision to leave the severity of punishment in cases of immorality up to the School District is a violation of Petitioner's right to due process of law;

3. That the Secretary of Education's decision not to take additional testimony on appeal with regard to the issues of pre-disposition and discrimination violates Petitioner's right to due process of law;

4. That the Commonwealth Court's enforcement of the established standard of review in teacher tenure cases was arbitrary and capricious and deprives her of due process under color of state law; and

5. That the Commonwealth Court's decision in this case is inconsistent with its prior decisions in similar cases.

Quite clearly, none of these reasons fall within the "conflicts" por-

tion of Rule 17.1. Sup.Ct.R. 17.1(b). Respondent would argue that they also fail to set forth important federal law questions which should be decided by this Court. Sup.Ct.R. 17.1(c).

1. This Court Has Already Determined That The Use Of "Community Standards" Is An Acceptable Means Of Deciding Individual Cases.
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The Supreme Court of Pennsylvania has held that the term "immorality," as used in §1122 of Pennsylvania's Public School Code of 1949, Act of March 10, 1949, P.L. 30, as amended, 24 P.S. §11-1122, means:

A course of conduct as offends the morals of the community and is a bad example to the youth whose ideals a teacher is supposed to foster and elevate.

Horosko v. Mount Pleasant Township School District, 335 Pa. 369, 372, 6

A.2d 866, 868, cert. denied, 308 U.S. 553 (1939); See also, Penn-Delco School District v. Urso, 33 Pa. Commonwealth Ct. 501, 510, 382 A.2d 162, 167 (1978).

On appeal to the Secretary of Education and the state appellate courts, the standard of review of the School District's termination decision where "immorality" was the basis for terminating a tenured teacher's employment is whether the decision was correct as a matter of law and whether there was substantial evidence to support the School District's determination. Langley v. Uniontown Area School District, 28 Pa. Commonwealth Ct. 69, 72, 367 A.2d 736, 737-38 (1977). In other words, might a reasonable man, acting reasonably, reach the same decision? Penn-Delco School District

v. Urso, 33 Pa. Commonwealth Ct. at 511,
382 A.2d at 167.

Thus, Pennsylvania law provides a "community standards" basis for determining immorality under the Public School Code, with provision for administrative and judicial review using the "substantial evidence," "legal correctness" and "reasonableness" standards. So stated, Pennsylvania's procedure for determining immorality under its Public School Code is very similar to standards established by this Court for the determination of obscenity in Miller v. California, 413 U.S. 15 (1973): i.e., "whether 'the average person, applying contemporary community standards' would find that the work, taken on a whole, appeals to the prurient interest" Id., at 24. This Court further stated

in that case that "[t]he mere fact that juries may reach different conclusions as to the same material does not mean that constitutional rights are abridged." Id., at 26 n.9.

Since this Court has already determined that the application of "community standards" in an individual case, properly policed by the courts, does not constitute an infringement of constitutional rights, Respondent would respectfully submit that Petitioner's first-cited reason is insufficient to establish a need for this Court's review.

2. Petitioner's Argument That
Leaving The Severity Of
Punishment To The School
District's Discretion Is A
Due Process Violation Is
Frivolous And Devoid Of Merit.

Respondent is at a loss to

determine why Petitioner believes that discretion of the School District to determine the severity of the punishment in a teacher termination case is a violation of her due process rights under the Fourteenth Amendment to the Constitution of the United States. Someone has to decide in the first instance what the punishment will be. In Pennsylvania, that role has been delegated to the local School District, subject to administrative and judicial review for sufficiency of evidence, legality and reasonableness.

Penn-Delco School District v. Urso, 33 Pa. Commonwealth Ct. 501, 511, 382 A.2d 162, 167 (1978).

The only case authority cited by Petitioner in support of her argument in this regard is Fisher v. Snyder, 476

F.2d 375 (8th Cir. 1973). That case involved a school teacher who had been terminated pursuant to the Nebraska statutory equivalent of "immorality" in the Pennsylvania Public School Code. In Fisher, the Eighth Circuit ruled that the decision of the Nebraska School District in the circumstances of that case was arbitrary and capricious and therefore violated the teacher's right to due process of law under the Fourteenth Amendment. Id., at 378.

Without arguing the merits of Fisher, it is immediately apparent that it is irrelevant to the instant Petition. While the Eighth Circuit ruled that the teacher's rights had been violated by the arbitrary and capricious decision of the school board, it did not rule that the Nebraska statute under

which the school board made its decision was unconstitutional.

Moreover, the lack of due process in the Fisher case was based on the complete lack of proof of misconduct on the part of the teacher. The school board's decision was admittedly based only upon inference -- not fact. Id., at 377. In the instant case, on the other hand, Commonwealth Court found that there was substantial evidence on the record to support the School District's decision.

3. The Secretary of Education's Decision Not To Take Additional Testimony As An Exercise Of His Administrative Discretion Is Not An Important Issue Which Warrants This Court's Review.

In Pennsylvania's scheme of teacher tenure appeals, the principal hearing occurs before the Board of the

School District in which the teacher works. Appeals from their decisions are first directed to the Secretary of Education. Public School Code of 1949, Act of March 10, 1949, P.L. 30, as amended, §1131, 24 P.S. §11-1131. The Secretary has discretionary power to decide whether or not additional testimony is needed on appeal. *Id.* His decision will not be overturned by the courts unless he has abused his discretionary powers. Clairton School District v. Strinich, 50 Pa. Commonwealth Ct. 389, 413 A.2d 26 (1980), aff'd, 494 Pa. 297, 431 A.2d 267 (1981), cert. denied, 456 U.S. 982 (1982). Petitioner has never shown any basis upon which it may be said that the Secretary abused his discretion in this case.

Respondent would note,

moreover, that the cases cited in the Petition simply do not support Petitioner's argument that the Secretary of Education's failure to refuse to take additional testimony on appeal was in violation of her due process rights.

None of those cases deal with due process. Yick Wo v. Hopkins, 118 U.S. 356 (1886) was decided on equal protection grounds. Id., at 373-74. Lane v. Wilson, 307 U.S. 268 (1939) was decided on the basis of the Fifteenth Amendment of the Constitution of the United States. Id., at 275-77. Hanover Township Federation of Teachers v. Hanover Community School Corporation, 318 F.Supp. 757 (N.D. Ind. 1970), aff'd., 457 F.2d 456 (7th Cir. 1972) was decided on the basis of the First Amendment right to freedom of association. 318 F.Supp. at 763.

4. Petitioner's Argument That The Commonwealth Court Decision In This Case Was Arbitrary And Capricious And Deprived Her Of Her Due Process Rights Is Clearly Specious And Does Not Serve As A Valid Basis For Granting Her Petition for Writ of Certiorari.

Petitioner's reason "III" for her Petition for a Writ of Certiorari states in part:

By correctly stating the issue as a question of law and then deciding it as a question of fact, Commonwealth Court has acted arbitrarily and has departed from the accepted and usual course of judicial decision making so as to call for an exercise of the power of supervision of the Supreme Court.

(Petition for Writ of Certiorari, at 14.)

Respondent is, once again, at a total loss to see why this Court would wish to exercise "supervisory powers" over the manner in which op-

nions are written in state courts. If this can be the basis for asserting violations of due process rights, this Court will undoubtedly be inundated with Petitions requesting certiorari on the basis of real or perceived flaws in judicial opinions.

The fact of the matter is that the court's Opinion does answer the "legal question" posed. Judge Craig stated in his Opinion:

Thus, the issue here is whether Mrs. Krall's conduct constituted immorality as a matter of law. See, Landi v. West Chester Area School District, 23 Pa. Commonwealth Ct. 586, 590, 353 A.2d 895, 897 (1976).

Our Supreme Court, in Horosko v. Mt. Pleasant Township School District, 335 Pa. 369, 372, 6 A.2d 866, 868, cert. denied, 308 U.S. 553, 60 S.Ct. 101, 84 L.Ed. 465 (1939), defined "immorality" in Section 1122 of the Code as:

A course of conduct as offends the morals of the

community and is a bad example to the youth whose ideals teachers are supposed to foster and elevate.

Moreover, questions of morality are not limited to sexual conduct, but may include lying. See, Appeal of Flannery, 406 Pa. 515, 178 A.2d 751 (1962).

The determination of community standards is made by the school board, and thus a finding of the board that a professional employee was guilty of offending the moral standards of the community by his actions will not be disturbed on appeal when supported by substantial evidence.

Penn-Delco School District v. Urso, 33 Pa. Commonwealth Ct. 501, 382 A.2d 162 (1978). Such substantial evidence necessary to justify dismissal is determined by whether a reasonable person acting reasonably might have reached the same decision as the board. Id.

Bethel Park School District v. Krall, 67 Pa. Commonwealth Ct. 143, 146-47, 445 A.2d 1377, 1378-79 (1982), appeal denied, ____ Pa. ___, ____ A.2d ___, (1983).

In other words, the question before the court was whether Mrs. Krall's conduct constituted immorality as a matter of law. The legal standard, established in Horosko, was that of the "community" as determined by the school board. Its decision is subject to review by the Secretary and the state courts only with regard to whether the proper legal standard -- community standards -- was applied and whether there was substantial evidence to support the board's decision. In the instant case, however, the Secretary attempted to overrule the school board's determination as to community standards and substitute his own judgment therefor. That is why his decision was overturned by Commonwealth Court.

The basic thrust of

Petitioner's argument in this regard is that Judge Craig's Opinion was not presented in a logical manner. Respondent would contend that the Opinion is emminently logical and fully answers the legal question raised. Even if the Opinion had failed logically, however, that would not be a valid basis for this Court to issue a Writ of Certiorari. It is axiomatic that this Court reviews judgments -- it does not revise opinions.

Herb v. Pitcairn, 324 U.S. at 126.

5. Inconsistency Between Decisions Of Different Panels Of The Same State Court, Even If True, Is An Insufficient Reason For This Court To Grant The Instant Petition.

Petitioner has asserted, as a reason for this Court to grant her Petition, that the Decision of Commonwealth Court in the instant case

was inconsistent with a previous decision of the court in Appeal of Barton Howe III, 37 Pa. Commonwealth Ct. 241, 389 A.2d 1214 (1978). In point of fact, however, the court in Howe never reached the issue of "immorality," but instead overturned the Secretary of Education's decision on the basis that he had exceeded his authority by re-evaluating the credibility of witnesses who testified before the school board in that case.

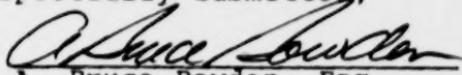
Even assuming, arguendo, however, that Petitioner is correct in her assertion that the two decisions conflict, Respondent would assert with confidence that no federal question is raised thereby. This Court does not and should not concern itself with differences of opinion among the courts of a particular

state concerning the interpretation of
their own state's law.

CONCLUSION

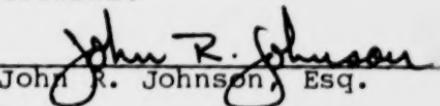
For each and all of the foregoing reasons, Respondent respectfully requests that the Court deny Mrs. Krall's Petition for Writ of Certiorari as completely and utterly frivolous and devoid of merit, and that an award of appropriate damages be made to Respondent pursuant to Sup.Ct.R. 49.2.

Respectfully submitted,

By 
A. Bruce Bowden, Esq.

Counsel of Record for
Respondent

Of Counsel:

By 
John R. Johnson, Esq.

Attorneys for Respondent

CERTIFICATE OF SERVICE

I, A. Bruce Bowden, hereby certify that I have, this 18th day of August, 1983, served three copies of the foregoing Respondent's Brief in Opposition to Petition for Writ of Certiorari upon the Petitioner by first class mail, postage prepaid, addressed to her counsel of record as set forth below:

Joseph M. Ludwig, Esquire
Ludwig & Achman
Attorneys for Petitioner
312 Frick Building
Pittsburgh, PA 15219


A. Bruce Bowden

A. Bruce Bowden